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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LAURICE McCURDY,)	
)	
Plaintiff,)	Civil Action No. 2:08-cv-1742-PMP-(PAL)
)	
v.)	
)	
LEROY KIRKEGARD, <i>et. al.</i> ,)	
)	
Defendants.)	

**FEDERAL DEFENDANT'S MOTION FOR ENLARGEMENT
OF TIME TO RESPOND TO PLAINTIFF'S AMENDED
COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF**

(First Request)

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure and Rule 6-1 of this Court's Local Rules, Federal Defendant Aaron Fisher, Deputy United States Marshal, respectfully requests that the Court provide Federal Defendant with an extension of time, to and until July 14, 2010, within which to file a response¹ to Plaintiff's Amended Complaint and motion for miscellaneous relief that was filed on June 18, 2010 (Pacer document 50). Had Plaintiff effected proper service, as required by Federal Rule of Civil Procedure 4(i), Federal Defendant's response to Plaintiff's Amended Complaint

¹ Federal Defendant anticipates responding with, among other arguments, a motion to dismiss for failure to state a claim upon which relief can be granted.

1 would be due on June 29, 2010. However, because Plaintiff has failed to properly
2 comply with service of process requirements, Federal Defendant is not required to
3 respond to Plaintiff's pleadings. Nonetheless, without waiving any arguments that may
4 be raised by Federal Defendant under Federal Rule of Civil Procedure 4, Federal
5 Defendant respectfully requests that the Court permit it to file a response to Plaintiff's
6 pleadings on or before July 14, 2010. In support of this request, Federal Defendant
7 relies upon the memorandum of points and authorities set forth below.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 Federal Rule of Civil Procedure 6(b)(1) provides: "When by these rules or by a
10 notice given thereunder or by order of court an act is required or allowed to be done at
11 or within a specified time, the court for cause shown may at any time in its discretion (1)
12 with or without motion or notice order the period enlarged if request therefore is made
13 before the expiration of the period originally prescribed or as extended by a previous
14 order" In this case, Federal Defendant's request for additional time is warranted for
15 the reasons set forth below.

16 Undersigned counsel recently received a litigation report from agency counsel
17 providing important information pertaining to Mr. McCurdy's lawsuit as it relates to
18 Federal Defendant Fisher. Undersigned counsel will need additional time to fully review
19 the report and prepare a response that will assist the Court in properly adjudicating the
20 issues presented by the Amended Complaint. Although Federal Defendant maintains
21 that Mr. McCurdy has failed to effect proper service as required by Federal Rule of Civil
22 Procedure 4, Federal Defendant, without waiving any appropriate arguments regarding
23 service, intends to respond to Plaintiff's Amended Complaint and motion for
24 miscellaneous relief. Accordingly, Federal Defendant respectfully requests that the
25 Court permit Federal Defendant to and until July 14, 2010 within which time to file a
26

1 response to the Amended Complaint and the motion for miscellaneous relief.

2 **Conclusion**

3 In light of the foregoing, Federal Defendant respectfully requests that the Court
4 allow Defendant until July 14, 2010 to respond to the Amended Complaint and the
5 motion for miscellaneous relief.

6 Respectfully submitted,

7 DANIEL G. BOGDEN
8 United States Attorney

9 */s/ Paul S. Padda*

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16 Attorneys for the Federal Defendant

17 Dated: June 28, 2010

18 **"IT IS SO ORDERED:**

19 **Without waiving any service of process
20 arguments that may exist, Federal
21 Defendant shall have until July 14, 2010
22 within which time to respond to the
23 Amended Complaint and the motion for
24 miscellaneous relief that was filed by
25 Plaintiff on June 18, 2010.**

26 
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document entitled "FEDERAL DEFENDANT'S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF" was served by United States mail on June 28, 2010 (first-class, postage prepaid) upon the following individual:

Laurice McCurdy
USP Victorville
P.O. Box 5300
Adelanto, California 92301

/s/ Paul S. Padda

Paul S. Padda
Assistant United States Attorney